

Internal Revenue Service, Treasury

§ 1.6655-1

§ 1.6655-7 Addition to tax on account of excessive adjustment under section 6425.

[T.D. 9347, 72 FR 44348, Aug. 7, 2007]

§ 1.6655-1 Addition to the tax in the case of a corporation.

(a) *In general.* Section 6655 imposes an addition to the tax under chapter 1 of the Internal Revenue Code in the case of any underpayment of estimated tax by a corporation. An addition to tax due to the underpayment of estimated taxes is determined by applying the underpayment rate established under section 6621 to the amount of the underpayment, for the period of the underpayment. This addition to the tax is in addition to any applicable criminal penalties and is imposed whether or not there was reasonable cause for the underpayment.

(b) *Amount of underpayment.* The amount of the underpayment for any required installment is the excess of—

(1) The required installment; over

(2) The amount, if any, of the installment paid on or before the last date prescribed for such payment.

(c) *Period of the underpayment.* The period of the underpayment of any required installment runs from the date the installment was required to be paid to the 15th day of the 3rd month following the close of the taxable year, or to the date such underpayment is paid, whichever is earlier. For purposes of determining the period of the underpayment a payment of estimated tax will be credited against unpaid required installments in the order in which such installments are required to be paid.

(d) *Amount of required installment—(1) In general.* Except as otherwise provided in this section and §§ 1.6655-2 through 1.6655-7, the amount of any required installment is 25 percent of the lesser of—

(i) 100 percent of the tax shown on the return for the taxable year (or, if no return is filed, 100 percent of the tax for such year); or

(ii) 100 percent of the tax shown on the return for the preceding taxable year.

(2) *Exception.* This paragraph (d)(1)(ii) does not apply if the preceding taxable year was not a taxable year of 12 months or the corporation did not file

a return for the preceding taxable year showing a liability for tax.

(e) *Large corporation required to pay 100 percent of current year tax—(1) In general.* Except as provided in paragraph (e)(2) of this section, paragraph (d)(1)(ii) of this section does not apply in the case of a large corporation (as defined in § 1.6655-4).

(2) *May use last year's tax for first installment.* Paragraph (e)(1) of this section does not apply for purposes of determining the amount of the 1st required installment for any taxable year. Any reduction in such 1st installment by reason of the preceding sentence is recaptured by increasing the amount of the next required installment determined under paragraph (d)(1)(i) of this section by the amount of such reduction and, if the next required installment is reduced by use of the annualized income installment method under § 1.6655-2 or the adjusted seasonal installment method under § 1.6655-3, by increasing subsequent required installments determined under paragraph (d)(1)(i) of this section to the extent that the reduction has not previously been recaptured.

(f) *Required installment due dates—(1) Number of required installments.* Unless otherwise provided, corporations must make 4 required installments for each taxable year.

(2) *Time for payment of installments—(i) Calendar year.* Unless otherwise provided, in the case of a calendar year taxpayer, the due dates of the required installments are as follows:

1st April 15
2nd June 15
3rd September 15
4th December 15

(ii) *Fiscal year.* In the case of a taxpayer other than a calendar year taxpayer, the due dates of the required installments are as follows:

1st 15th day of 4th month of the taxable year
2nd 15th day of 6th month of the taxable year
3rd 15th day of 9th month of the taxable year
4th 15th day of 12th month of the taxable year

(iii) *Short taxable year.* See § 1.6655-5 for rules regarding required installments for corporations with a short taxable year.

(iv) *Partial month.* Except as otherwise provided, for purposes of determining the due date of any required installment, a partial month is treated as a full month.

(g) *Definitions.* (1) The term *tax* as used in this section and §§ 1.6655-2 through 1.6655-7 means the excess of—

(i) The sum of—

(A) The tax imposed by section 11, section 1201(a), or subchapter L of chapter 1 of the Internal Revenue Code, whichever is applicable;

(B) The tax imposed by section 55; plus

(C) The tax imposed by section 887; over

(ii) The credits against tax provided by part IV of subchapter A of chapter 1 of the Internal Revenue Code.

(2)(i) In the case of a foreign corporation subject to taxation under section 11, section 1201(a), or subchapter L of chapter 1 of the Internal Revenue Code, the tax imposed by section 881 is treated as a tax imposed by section 11.

(ii) In the case of a partnership that is treated, pursuant to regulations issued under section 1446(f)(2), as a corporation for purposes of this section, the tax imposed by section 1446 is treated as a tax imposed by section 11.

(iii) Unless otherwise provided in the Internal Revenue Code or Treasury regulations, for purposes of the definition of “tax” as used in this section, a recapture of tax, such as a recapture provided by section 50(a)(1)(A), and any other similar provision, is not considered to be a tax imposed by section 11.

(iv) For the purposes of paragraph (d) of this section, the return for the preceding taxable year is the Federal income tax return for such taxable year that is required by section 6012(a)(2). However, if an amended Federal income tax return has been filed before the due date of an installment, then the return for the preceding taxable year is the Federal income tax return as amended. If an amended Federal income tax return has been filed on or after the due date for an installment, then the return for the preceding taxable year does not include for such in-

stallment period the Federal income tax return as amended subsequent to the due date for such installment. Paragraph (d) of this section will apply without regard to whether the taxpayer’s Federal income tax return for the preceding taxable year is filed in a timely manner.

(h) *Special rules for consolidated returns.* For special rules relating to the determination of the amount of the underpayment in the case of a corporation whose income is included in a consolidated return, see § 1.1502-5(b).

(i) *Overpayments applied to subsequent taxable year’s estimated tax.*—(1) *In general.* If a taxpayer elects under the provisions of sections 6402(b) and 6513(d) and the regulations to apply an overpayment in year one against the estimated tax liability for year two, the overpayment will be applied to the required installment payments for year two in the order due and to the extent necessary to satisfy such installments, similar to the manner in which an actual overpayment of one installment is carried forward to the next installment. No interest is accrued or paid on an overpayment if the election to apply the overpayment against estimated tax is made.

(2) *Subsequent examinations.* If a deficiency is determined in an examination of a return for a taxable year that originally reflected an overpayment that was applied against estimated tax for the succeeding taxable year, interest on the deficiency will not begin to accrue on an amount applied until that amount is used to satisfy a required estimated tax payment in such taxable year. Regardless of whether the taxpayer anticipated the application of such overpayment from the prior taxable year in calculating and paying its required estimated tax installment liabilities for the current taxable year, the subsequently determined underpayment and interest computation thereon will not change the taxpayer’s original election to apply the overpayment against the estimated tax liability of the succeeding taxable year. Any changes to the usage of the original overpayment from the prior taxable year are hypothetical only and solely for the purpose of computing deficiency interest. Overpayment interest

will not be impacted. For further guidance, see Rev. Rul. 99-40 (1999-2 CB 441), (see § 601.601(d)(2)(ii)(b) of this chapter).

(j) *Examples.* The method prescribed in paragraphs (d) through (g) of this section is illustrated by the following examples:

Example 1. (i) X, a calendar year corporation, estimates its tax liability for its taxable year ending December 31, 2009, will be \$85,000. X is not a large corporation as defined in section 6655(g)(2) and § 1.6655-4. X reported a liability of \$74,900 on its return for the taxable year ended December 31, 2008, with no credits against tax. X paid four installments of estimated tax, each in the amount of \$18,725 (25 percent of \$74,900), on April 15, 2009, June 15, 2009, September 15, 2009, and December 15, 2009, respectively. X reported a tax liability of \$88,900 on its return due March 15, 2010. X had a \$5,000 credit against tax for tax year 2009 as provided by part IV of subchapter A of chapter 1 of the Internal Revenue Code. X did not underpay its estimated tax for tax year 2009 for any of the four installments, determined as follows:

(A) Tax as defined in paragraph (g) of this section for 2009 (\$88,900 - \$5,000) = \$83,900

(B) Tax as defined in paragraph (g) of this section for 2008 = \$74,900

(C) 100% of the lesser of this paragraph (j), *Example 1* (i)(A) or (i)(B) = \$74,900

(D) Amount of estimated tax required to be paid on or before each installment date (25% of \$74,900) = \$18,725

(E) Deduct amount paid on or before each installment date = \$18,725

(F) Amount of underpayment for each installment date = \$0

(ii) [Reserved]

Example 2. (i) *Facts.* Y, a calendar year corporation, estimates its tax liability for its taxable year ending December 31, 2009, will be \$70,000. Y is not a large corporation as defined in section 6655(g)(2) and § 1.6655-4. Y reported a Federal income tax liability of \$90,000 for its taxable year ending December 31, 2008. Y paid no installment of estimated tax on or before April 15, 2009, June 15, 2009, or September 15, 2009, but made a payment of \$63,000 on December 15, 2009. On March 15, 2010, Y filed its income tax return showing a tax of \$70,000. Y had no credits against tax for tax year 2009. Of the \$63,000 paid by Y on December 15, 2009, \$17,500 is applied to each of the first three installments due on April 15, June 15, and September 15, 2009, and the remaining \$10,500 is applied to the fourth installment. Y has an underpayment of estimated tax for each of the first three installments of \$17,500 and for the fourth installment of \$7,000. The addition to tax under section 6655(a) is computed as follows:

(A) Tax as defined in paragraph (g) of this section for 2009 = \$70,000

(B) Tax as defined in paragraph (g) of this section for 2008 = \$90,000

(C) 100% of the lesser of this paragraph (j), *Example 2* (i)(A) or (i)(B) = \$70,000

(D) Amount of estimated tax required to be paid on or before each installment date (25% of \$70,000) = \$17,500

(E) Amount paid on or before the first, second, and third installment dates = \$0

(F) Amount paid on or before the fourth installment date = \$63,000

(G) Amount of underpayment for each of the first, second, and third installment dates = \$17,500

(H) Amount of underpayment for the fourth installment date = \$7,000

(ii) *Addition to tax.* Assuming that neither the annualized income installment method nor the adjusted seasonal installment method described in §§ 1.6655-2 and 1.6655-3 would result in a lower payment for any installment period, and the addition to tax is computed under section 6621(a)(2) at the rate of 8 percent per annum for the applicable periods of underpayment, the addition to tax is determined as follows:

(A) First installment (underpayment period 4-16-09 through 12-15-09), computed as $244/365 \times \$17,500 \times 8\% = \936

(B) Second installment (underpayment period 6-16-09 through 12-15-09), computed as $183/365 \times \$17,500 \times 8\% = \702

(C) Third installment (underpayment period 9-16-09 through 12-15-09), computed as $91/365 \times \$17,500 \times 8\% = \349

(D) Fourth installment (underpayment period 12-16-09 through 3-15-10), computed as $90/365 \times \$7,000 \times 8\% = \138

(E) Total of this paragraph (j), *Example 2* (ii)(A) through (D) = \$2,125

(k) *Effective/applicability date.* This section applies to taxable years beginning after September 6, 2007.

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§ 1.6655-2 Annualized income installment method.

(a) *In general.* In the case of any required installment, if the corporation establishes that the annualized income installment determined under this section, or the adjusted seasonal installment determined under § 1.6655-3, is less than the amount determined under § 1.6655-1—

(1) The amount of such required installment is the annualized income installment (or, if less, the adjusted seasonal installment); and

(2) Any reduction in a required installment resulting from the application of this section will be recaptured by increasing the amount of the next